

(BUSINESS LOSS RULES)

Are you?	- Running a small business as a sole proprietor or through a partnership?
At a glance:	- Taxpayers are required to satisfy the non-commercial loss rules before offsetting any business losses against their other income. But what exactly are the non-commercial loss rules?
You should:	- Consider if you satisfy the non-commercial loss provisions before offsetting business losses against your other income. - Contact us if you require any clarification or advice.

In the May 2009 budget, the Government tightened the non-commercial loss rules to make it more difficult for high income earners to offset business losses against their other income. Only taxpayers with adjusted taxable incomes of *less* than \$250,000 who satisfy at least one of the tests below can offset their business losses against their other income.

Some taxpayers may still offset business losses against other income provided one of the following tests are satisfied:

- Assessable income test;
- Real property test;
- Other assets test; and
- Profits test.

Assessable Income Test

The assessable income test requires that the taxpayer derives assessable income of \$20,000 or more from the business activities during the income year.

Real Property Test

The real property test requires that the business uses real property or an interest in real property with a value of at least \$500,000. This can be determined using either the market value or reduced cost base methods.

Other Assets Test

The other assets test requires that the total value of all the assets used on a continuing basis in the business be at least \$100,000 in value (includes depreciable assets, trading stock, leased assets, etc but excludes motor vehicles and assets in SBE/STS pools).

Profits Test

For the profits test to be satisfied, the business activity must have resulted in taxable income in at least three out of the past five years, including the current year.

High Income Earner?

Taxpayers with adjusted taxable incomes of *less* than \$250,000 who satisfy at least one of the above tests can offset their business losses against their other income. Taxpayers with adjusted taxable incomes *over* \$250,000 cannot claim the business loss, and must carry forward the loss to claim against future profits in that business.

Primary Producers?

There are exceptions to the rules above if your other income is less than \$40,000.

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Directors Russell W. Gilbert FCA Brent Delahey DipAcc, MIPA Patrick J. Hoey BBus Acc, CPA

(Bacchus Marsh P 03 5366 1000 Melbourne P 03 9863 8133 Geelong P 03 5222 7683 E mail@weareaccountable.com.au)

www.weareaccountable.com.au